

Service Date: March 13, 1981

DEPARTMENT OF PUBLIC SERVICE REGULATION  
BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MONTANA

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IN THE MATTER of the Application	) UTILITY DIVISION
by the CITY OF LIBBY to Revise	) DOCKET NO. 6800
Sewer Rates.	) PROPOSED ORDER NO. 4733
	4563a

ERRATA

Immediately subsequent to the issuance of Proposed Order No. 4733 in this matter, it was remembered that Interim Rate Order No. 4563 had also been issued in this matter.

THEREFORE, consistent with Commission procedure, Proposed Order No. 4733 is hereby renumbered Proposed Order No. 4563a. There being no substantive conflicts between Interim Rate Order No. 4563 and what is now Proposed Order No. 4563a, no further changes are necessary.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION.

GORDON E. BOLLINGER, Chairman  
JOHN B. DRISCOLL, Commissioner  
HOWARD L. ELLIS, Commissioner  
CLYDE JARVIS, Commissioner  
THOMAS J. SCHNEIDER, Commissioner

Service Date: January 5, 1981

PROPOSED ORDER NO. 4563a

DEPARTMENT OF PUBLIC SERVICE REGULATION  
MONTANA PUBLIC SERVICE COMMISSION

In the Matter of the Application of                   ) UTILITY DIVISION  
the CITY OF LIBBY for Authority to                ) DOCKET NO. 6800  
Increase Rates for Sewer Service.                ) ORDER NO. 4733  
4563a

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APPEARANCES

FOR THE APPLICANT:

Thomas R. Bostock, City Attorney, 505 Mineral Avenue,  
Libby, Montana 59923.

FOR THE PROTESTANTS:

James C. Paine, Montana Consumer Counsel, 34 West Sixth  
Avenue, Helena, Montana 59601.

FOR THE COMMISSION:

Robert F. W. Smith, Staff Attorney, 1227 11th Avenue, Helena,  
Montana 59601.

BEFORE:

GEORGE TURMAN, Commissioner & Hearing Examiner.

The Examiner, having taken evidence and being fully advised  
in the premises, makes the following findings, conclusions  
and order:

FINDINGS OF FACT

1. On April 18, 1980 the City of Libby, Montana, completed  
its application to the Montana Public Service Commission,  
requesting that the Commission, pursuant to its legal  
authority, authorize slight increase in and restructuring of  
the City's sewer rates. Requests for Hearing on the proposed  
rate increase -- assigned Docket No. 6800 -- were received,  
and the Commission subsequently gave notice that a public  
hearing would be held at 10:00 a.m., August 21, 1980, in the  
City Council Chambers, City Hall, Libby, Montana.

2. At the August 21st hearing, the City's position was presented by Gary Bishop, Libby, Branch Manager of HKM Associates, Engineers, Architects, Planners. That firm is under contract to assist the City in complying with EPA directives regarding the City's sewer system.

Five citizens of Libby testified as well:

Walt Hinkley, owner of the Mighty Clean Launderette;

Carl Erhardt, representing the Libby School District;

Darell Atkins, laundromat owner;

Robert Holiday, homeowner; and

Addie Bunn, owner of the Rainbow Motel.

3. Mr. Bishop explained that the City has been ordered by the EPA to upgrade its sewer system, and that the EPA requires "fair & equitable" rates. As a result the City must change its current rate structure; there are two possible bases for rates: Meter readings or estimated flows. At the time of the hearing the City was unable to reach an agreement with PP & L, owner of the water system in Libby, to get meter readings. Because of this, the City proposed to use estimated flows; the EPA accepted this proposal. Mr. Bishop also presented Exhibit 1, records of the City of Lewistown, Montana, as well as two national average tables of estimated sewer flows. These were the basis of the City of Libby's proposed rate structure.

The only increase in the revenue requirement is an additional \$3,000 per year to provide a contingency fund for unexpected repairs, etc.

4. On cross-examination Mr. Bishop agreed that metered water consumption figures would be a better basis for sewer rates; he said that the City was still working with PP & L to find a solution to this problem. All public witnesses concurred in

Mr. Bishop's preference for rates based on metered consumption of water.

5. The City projected a need for total revenues of \$83,450, including the contingency fund. The Commission finds these expenses to be proper, and accepts the City's projected total revenue requirement of \$83,450 as reasonable and just.

6. Subsequent to the hearing, PP & L submitted to the Commission a copy of a City Ordinance from Lebanon, Oregon, a City where they also own the water system. It was PP & L's intent that the City of Libby adopt a similar ordinance; the Lebanon Ordinance was transmitted to the City of Libby, but as of the date of this Order, no response has been received. As Commissioner George Turman will soon be leaving office, a Proposed Order must be issued at this time.

Since the only increase in overall revenues is to be \$3,000 per year for a contingency fund, which the Commission has found to be just and reasonable, the only question left to be resolved is that of rate structure. Since both the City's witness as well as all public witnesses agreed that rates based on metered consumption of water were most appropriate and since the Commission has received every indication that the City of Libby is working toward a City Ordinance acceptable to PP & L, the Final Order issued in this matter will set forth the approved rates in detail. At this time however, as Commissioner Turman must issue his Proposed Order, he can do no more than approve consumption-based rates in principle. If, for some unforeseen reason, accommodation can not be made, a further Proposed Order will issue.

7. Mr. Hinkley and Mr. Atkins, both laundromat owners, each had actual figures for their water consumption. They endorsed

rates based on volumes of water consumed, as their actual figures showed the engineer's estimates to be excessive. Mr. Erhardt also compared what he felt was an arbitrary multiplier applied to the school to actual consumption figures, concluding that the school administration understood that an increase in sewer rates might be necessary but urged that it be made as equitable as possible. Ms. Bunn, proprietor of the Rainbow Hotel, endorsed the use of metered water as a basis for rates, saying that it made good sense in her business, which was closed in the winter. Mr. Holiday, a local homeowner, agreed, stating that rates based on usage -- with some allowance for taps run at cold periods to avoid freezing -- were - - the fairest to all.

#### CONCLUSIONS OF LAW

1. The Montana Public Service Commission properly exercises jurisdiction over the parties and subject matter in this proceeding.
2. The Commission afforded all interested parties reasonable notice and an opportunity to participate in this proceeding.
3. The rates to be approved herein are reasonable and just.

#### ORDER

NOW THEREFORE, IT IS ORDERED, by Hearing Examiner George Turman that the City of Libby shall file rate schedules based on metered water usage and consistent with this Proposed Order, that will yield total annual revenues of \$83,450.

IT IS FURTHER ORDERED, pursuant to Montana Law (2-4-621 MCA, ARM 38.2.4802), that this is a proposed order. Any party shall have the opportunity to file exceptions to this initial

decision, present briefs and make oral arguments before the entire Commission, provided such exceptions, briefs and requests for oral argument are presented to this Commission within twenty (20) days from the service date of this proposed order. (ARM 38.2.4803 and 38.2.4804).

IT IS FURTHER ORDERED that a full, true and correct copy of this order be sent forthwith by first class mail to the Applicant herein, as well as to all other appearances.

DONE at Helena, Montana, this 2nd day, of January, 1981.

Commissioner GEORGE TURMAN,  
Hearing Examiner

ATTEST:

Madeline L. Cottrill  
Commission Secretary

(SEAL)